

III. Remarks

A. Amendments to the Claims

Claim 1 has been amended to delete the phrase "so that one side of each of the tableted layers is entirely in contact with the viscoelastic phase." Claim 1 has also been amended to add the following language at the end of the claim – – "so that the three layers of the tablet are visible." Support for the addition of this language to claim 1 is provided by the Specification at page 55, lines 12–29 and in particular, at page 56, lines 4–8. Page 56, lines 4–8 read as follows:

The configuration of the above-described three-layer tablet is particularly visually attractive when the viscoelastic layer constitutes 0.1 to 0.6 times, preferably 0.15 to 0.5 times and in particular 0.2 to 0.4 times, the total height of the tablets.

Claim 1 has been further amended to a detergent or cleaner "shaped body in the form of a "three-layer tablet. . . ." This amendment to claim 1 has been made to make claim 1 consistent with claims 2–25, all of which depend either directly or indirectly upon claim 1.

B. Rejection Under 35 U.S.C. Section 112

The Examiner has rejected claim 1 under 35 U.S.C. Section 112, first paragraph, as failing to comply with the written description requirement. In making this rejection, the Examiner has taken the position that Applicants do not appear to have support for the phrase "one side of each of the tableted layers is entirely in contact with the viscoelastic phase." As noted above, Applicants have amended claim 1 to delete this phrase. Accordingly, by that amendment, the rejection of claim 1 under 35 U.S.C. Section 112, first paragraph, has become moot.

C. Rejection Under 35 U.S.C. Section 103

Claims 1–25 are rejected under 35 U.S.C. Section 103(a) as being unpatentable over United States Patent No. 6,548,473 to Thoen et al.

1. The Subject matter of Applicants' claimed tablet

Applicants' invention as set forth in claim 1 is to a detergent or cleaner shaped body in the form of a three-layer tablet comprising a viscoelastic phase. The viscoelastic phase comprises, based on its weight, 60–85% by weight of one or more alkylbenzenesulfonates, having a storage modulus of between 40,000 and 800,000 Pa. The viscoelastic phase is present in the form of a layer placed between two tableted phases, each in the form of a layer, so that the three layers of the tablet are visible. As noted above, the remaining claims 2–25 are dependent upon claim 1 or ultimately upon claim 1, and accordingly incorporate the subject matter of claim 1.

2. Comparison of the subject matter of Applicants' claimed tablet with the Thoen et al. tablet

Applicants' claimed tablet is a three-layer tablet comprising a viscoelastic phase layer placed between two tableted phases, each in the form of a layer, so that the three layers of the tablet are visible. In order to be visible, the viscoelastic layer must form part of the edge of the tablet, *i.e.*, partially enclose or encapsulate the tablet. In contrast, Thoen et al. discloses that the layer relied on by the Examiner as the viscoelastic phase is a non-compressed, non-encapsulating portion. Accordingly, the non-encapsulating portion of the Thoen et al. tablet cannot enclose any of the Thoen et al. tablet. Instead, as disclosed in Thoen et al., the tablet is prepared by having a compressed portion in a plurality of molds wherein the molds are filled with the non-compressed, non-encapsulating portion or comprises flowable particles which cannot encapsulate the tablet. (See column 52, lines 17–33 and 47–54 and column 13, lines 48–56.)

Therefore, Applicants claimed tablet comprises a viscoelastic phase that partially encapsulates Applicants' tablet, whereas the portion in Thoen et al. relied on for the viscoelastic phase is “non-encapsulating.”

**3. Legal standards for determining patentability
of Applicants' claimed tablet under 35 U.S.C. Section 103**

Section 2141 of the *Manual of Patent Examining Procedure* sets forth the standards for determining the patentability of Applicants' claimed portion under 35 U.S.C. Section 103. Section 2141 sets forth four Basic Considerations which apply to obviousness rejections. They are as follows:

- (A) The claimed invention must be considered as a whole;
- (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and
- (D) Reasonable expectation of success is the standard with which obviousness is determined.

(*Hodosh v. Block Drug, Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986)).

Accordingly, for the reasons set forth above, Thoen et al. does not disclose, exemplify, or suggest to one of ordinary skill in the art the desirability and thus the obviousness of Applicants' claimed tablet considered as a whole. Thoen et al. discloses and suggests a tablet having two tableted phases containing a mold within which a non-compressed, non-encapsulating phase is inserted. In contrast, Applicants' claimed tablet consists of three layers within which Applicants' viscoelastic phase forms a layer that is visible, *i.e.*, extends to the outer edge of the tablet, and accordingly, encapsulates a portion of the tablet. Hence, on the basis of standards (A) and (B) for obviousness set forth in Section 2141 of the *Manual of Patent Examining Procedure*, Applicants' claimed tablet is not obvious over the tablets suggested in Thoen et al. Therefore, the rejection of claims 1–25 under 35 U.S.C. Section 103(a) as being

unpatentable over United States Patent No. 6,548,473 to Thoen et al. is untenable and should be withdrawn.

4. Common ownership of the subject matter of claims 1-25

Applicants confirm that the subject matter of claims 1-25 was commonly owned at the time any inventions covered therein were made.

IV. Conclusion

It is believed that the above Amendment and Remarks constitute a complete response under 37 CFR § 1.111 and that all bases of rejection in the Examiner's Action have been adequately rebutted or overcome. A Notice of Allowance in the next Office Action is, therefore, respectfully requested. The Examiner is requested to telephone the undersigned attorney if any matter that can be expected to be resolved in a telephone interview is believed to impede the allowance of pending claims 1-25 of United States Patent Application Serial No. 10/694,549.

Respectfully submitted,

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